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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No.**

**PENSIONS**

**The Local Government Pension Scheme Amendment (Increased Pension Entitlement) (Scotland) Regulations 2018**

<i>Made</i>	- - - - -	<i>2018</i>
<i>Laid before the Scottish Parliament</i>		<i>2018</i>
<i>Coming into force</i>	- - -	<i>2018</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 7 and 12 of, and Schedule 3 to, the Superannuation Act 1972(a), and of all other powers enabling them to do so.

In accordance with section 7(5) of that Act, they have consulted such associations of local authorities as appeared to them to be concerned, such local authorities with whom consultation appeared to them to be desirable, and such representatives of other persons likely to be affected by the proposed regulations as appears to them to be appropriate.

**Citation, commencement, effect and extent**

**1.**—(1) These Regulations may be cited as the Local Government Pension Scheme Amendment (Increased Pension Entitlement) (Scotland) Regulations 2018.

(2) These Regulations come into force on [ ] and, subject to paragraph (3), have effect from 8th April 2019(b).

(3) Regulation 2 in so far as required to give effect to regulation 4, regulation 7 in so far as required to give effect to regulation 9, regulation 4 and regulation 9 have effect from 12th November 1979 to 7th April 2019.

(4) These Regulations extend to Scotland only.

**Amendment of the Local Government Pension Scheme**

**2.** The Local Government Pension Scheme (Scotland) Regulations 1998(c) are amended in accordance with regulations 3 to 6.

**3.** In regulation 161, (interpretation) in the definition of “the existing Orders” –

(i) for “and” after “Order 2009” substitute “;”; and

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(a) 1972 c.11. The functions of the Secretary of State exercised in the making of these Regulations were transferred to the Scottish Ministers as regards Scotland by virtue of the Scotland Act (Transfer of Functions to the Scottish Ministers etc.) Order 1999, article 2 and Schedule 1 (S.I. 1999/1750).

(b) Retrospective effect is permitted by section 12(1) of the Superannuation Act 1972.

(c) S.I. 1998/366, relevant amending instruments are S.S.I. 2000/199, 2001/23, 2002/311, 2005/293, 315 and 554, 2006/123, 468 and 514, and 2007/71.

(ii) after “Order 2009” insert “the Pensions Increase (Review) Order 2011(**a**), the Pensions Increase (Review) Order 2012(**b**), the Pensions Increase (Review) Order 2013(**c**), the Pensions Increase (Review) Order 2014(**d**), the Pensions Increase (Review) Order 2015(**e**), the Pensions Increase (Review) Order 2017(**f**) and the Pensions Increase (Review) Order 2018(**g**)”.

**4.** In regulation 162 (application of this Part)–

- (a) after “5<sup>th</sup> April 2009” insert “or 7th April 2018”; and
- (b) for “that date” substitute “either of those dates”.

**5.** In regulation 164 (Authorisation of payment of GMP-related payments), for paragraph (2) substitute “(2) Where a relevant administering authority has paid GMP-related payments before 6th April 2018, the authority may not recover those payments after 7th April 2018.”.

**6.** In regulation 165 (Increased Pension Entitlement)–

- (a) in paragraph (2) for “2009–10” substitute “2018–19”;
- (b) in paragraph (6)(a), for “2009–10” substitute “2018–19”; and
- (c) in paragraph (6)(b), for “2009–10” twice occurring, substitute “2018–19” and for “not entitled to a guaranteed minimum pension” substitute
  - “(i) not entitled to a guaranteed minimum pension or
  - (ii) entitled to the original guaranteed minimum pension awarded prior to the reconciliation of that award”.

**Amendment of the Local Government Superannuation (Scotland) Regulations 1987**

**7.** The Local Government Superannuation (Scotland) Regulations 1987(**h**) are amended in accordance with regulations 8 to 11.

**8.** In regulation U1, (interpretation) in the definition of “the existing Orders” –

- (i) for “and” after “Order 2009” substitute “,”; and
- (ii) after “Order 2009” insert “the Pensions Increase (Review) Order 2011(**i**), the Pensions Increase (Review) Order 2012(**j**), the Pensions Increase (Review) Order 2013(**k**), the Pensions Increase (Review) Order 2014(**l**), the Pensions Increase (Review) Order 2015(**m**), the Pensions Increase (Review) Order 2017(**n**) and the Pensions Increase (Review) Order 2018(**o**)”.

**9.** In regulation U2 (application of this Part)–

- (a) after “5<sup>th</sup> April 2009” insert “or 7th April 2018”; and
- (b) for “that date” substitute “either of those dates”.

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(a) S.I. 2011/827.  
(b) S.I. 2012/782.  
(c) S.I. 2013/604.  
(d) S.I. 2014/668.  
(e) S.I. 2015/671.  
(f) S.I. 2017/417.  
(g) S.I. 2018/333.  
(h) S.I. 1987/1850.  
(i) S.I. 2011/827.  
(j) S.I. 2012/782.  
(k) S.I. 2013/604.  
(l) S.I. 2014/668.  
(m) S.I. 2015/671.  
(n) S.I. 2017/417.  
(o) S.I. 2018/333.

**10.** In regulation U4 (Authorisation of payment of GMP-related payments), for paragraph (2) substitute “(2) Where a relevant administering authority has paid GMP-related payments before 8th April 2019, the authority may not recover those payments after 8th April 2019.”.

**11.** In regulation U5 (Increased Pension Entitlement)–

- (a) in paragraph (2) for “2009–10” substitute “2018–19”;
- (b) in paragraph (7)(a), for “2009–10” substitute “2018–19”; and
- (c) in paragraph (7)(b), for “2009–10” twice occurring, substitute “2018–19” and for “not entitled to a guaranteed minimum pension” substitute
  - “(i) not entitled to a guaranteed minimum pension or
  - (ii) entitled to the original guaranteed minimum pension awarded prior to the reconciliation of that award” .

A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
2018

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366) (“the 1998 Regulations”) and the Local Government Superannuation (Scotland) Regulations 1987 (S.I. 1987/1850) (“the 1987 Regulations”) to authorise the payments made by administering authorities between 12th November 1979 and 6th April 2018 of annual increases to certain persons who are entitled to a guaranteed minimum pension. They also introduce a new entitlement to an Increased Pension Entitlement (“IPE”).

Section 5 of the Pensions (Increase) Act 1971 (“the 1971 Act”) requires pensions authorities to increase annually pensions to which that Act applies. The 1971 Act is modified by sections 59 and 59A of the Social Security Pensions Act 1975 (“the 1975 Act”). Pensions authorities pay annual increases on pensions in accordance with the annual Pensions (Increase) Review Orders (“the annual PIROs”) which are made under section 59 of the 1975 Act. The combined effect of section 59(5) of the 1975 Act, Directions by the Treasury made under section 59A of the 1975 Act and relevant provisions of the annual PIROs is that the amount of increase payable by a pensions authority under the annual PIROs is reduced by the amount equal to the rate of the GMP which is paid by the Department of Work and Pensions (“DWP”). Affected pensioners (to whom Part VII of the 1998 Regulations or Part U of the 1987 Regulations applies) have received duplicate payments, from both DWP and the administering authority.

Regulation 163 of the 1998 Regulations and regulation U3 of the 1987 Regulations define a GMP-related payment as a payment made by the administering authority applying the annual PIROs as if no reduction fell to be made in relation to the person’s GMP where no GMP was held or the GMP held before reconciliation .

Amended regulation 164 of the 1998 Regulations and amended regulation U4 of the 1987 Regulations authorise the past payment of GMP-related payments. This provision has effect from 12th November 1979 until 7th April 2019. Paragraph (2) provides that where an administering authority has made such payments to an affected pensioner, it may not recover them.